

REIMBURSEMENT FOR DAMAGE BY FEDERAL AGENCIES TO PUBLIC AIRPORTS

JULY 2 (legislative day, JUNE 27), 1952.—Ordered to be printed

Mr. JOHNSON of Colorado, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 2815]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 2815) to amend the Federal Airport Act in order to extend the time during which requests may be made for reimbursement for damages to public airports resulting from military operations, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments approved by the committee are as follows:

Strike all out after the enacting clause and insert the following:

That section 17 of the Federal Airport Act, as amended, is hereby amended as follows:

(a) By deleting the last sentence of subsection (c) and inserting in lieu thereof the following: "Appropriations made pursuant to this subsection shall remain available until expended."

(b) By amending subsection (d) to read as follows:

"TIME LIMITATIONS ON FILING OF REQUESTS

"(d) No request for reimbursement of the cost of rehabilitation or repair of a public airport submitted pursuant to this section shall be considered by the Secretary unless such request was submitted to him within six months after the occurrence of the damage upon which the request is based, except that in the case of a request relating to damage occurring while the airport was under the control and management of the United States, such request may be submitted to the Secretary within six months after the transfer of such control and management of the airport to the public agency involved."

(c) By adding thereto a new subsection (e) as follows:

"TIME LIMITATIONS ON MAKING OF CERTIFICATIONS

"(e) No certification pursuant to this section with respect to a request submitted to the Secretary after the date of enactment of this subsection (except a supplemental certification of the amount by which the actual cost of accomplished

rehabilitation or repair exceeds the amount of a prior certification which was based on the estimated cost of such rehabilitation or repair) shall be made to the Congress after a date one year from the expiration of the period prescribed by law for the submittal of such request."

SEC. 2. There is hereby repealed the proviso contained in the appropriation to the Department of Commerce, Civil Aeronautics Administration, headed "Claims, Federal Airport Act," in chapter III of the Third Supplemental Appropriation Act, 1951 (Public Law 45, Eighty-second Congress), reading as follows: "*Provided*, That no request for reimbursement of the cost of rehabilitation or repair of a public airport filed under section 17 of the Federal Airport Act shall be considered by the Secretary unless filed prior to July 1, 1951, and the Secretary shall make no certification to Congress after July 1, 1952, of the actual or estimated cost of such rehabilitation or repair."

SEC. 3. Notwithstanding the proviso of the Third Supplemental Appropriation Act, 1951, cited in section 2 and the provisions of subsection (d) of section 17 of the Federal Airport Act, the Secretary of Commerce is authorized to consider, pursuant to the said section 17, any request for reimbursement of the cost of rehabilitation or repair of a public airport, which is submitted to him within six months following the effective date of this Act, if such request would have met the time requirements of the said subsection (d) had it been filed on some date subsequent to June 30, 1951, and prior to the effective date of this Act.

Amend the title so as to read:

"A bill to amend section 17 of the Federal Airport Act, as amended, so as to extend and broaden the program for reimbursement of the cost of rehabilitation and repair of public airports damaged by Federal agencies, and for other purposes."

PURPOSE OF THE BILL

The principal purpose of the bill S. 2815, as amended, is to provide for reimbursement of the owners of public airports by the Government for the costs of rehabilitating or repairing public airports damaged by the military agencies during the present national emergency. In order to accomplish this result, the bill as amended would reactivate the program of Federal reimbursement to State and local public agencies under section 17 of the Federal Airport Act, for the cost of rehabilitation or repair of public airports damaged by Federal agencies. In addition, the bill as amended would amend section 17 of the Federal Airport Act in certain respects, these amendments being designed to reduce or avoid administrative difficulties which have confronted the Civil Aeronautics Administration in the administration of the section 17 program.

For the reasons pointed out by Senator McCarran in a statement made on the floor of the Senate and set forth in the appendix, it is the opinion of this committee that it is only by so extending and improving the section 17 program that the Government can be assured that any civil airports damaged as a result of military operations during the present national emergency, will be suitably repaired or rehabilitated when they are returned to civil control and management. The committee concurs in the Senator's view that the accomplishment of such rehabilitation and repair is essential to civil aviation and national defense and therefore in the interest of the United States, and that the Federal Government therefore should encourage, and bear the cost of, such rehabilitation and repair. The committee further agrees with Senator McCarran that these objectives should be accomplished by making section 17 of the Federal Airport Act "applicable to any damage to civil airports done by the military agencies during the present period of rapidly increasing military use of such airports."

The amendments to the bill approved by the committee are identical to those proposed by Senator McCarran, as introduced by him and

referred to this committee on June 13, 1952. Consequently, the Senator's statement as to the purpose and effect of his proposed amendments, which is the statement included in the appendix, is equally applicable to the committee amendments. The committee concurs with Senator McCarran in all of the opinions expressed by him in that statement and therefore is not restating those opinions in the text of this report.

It needs to be noted here only that the bill, as amended, would accomplish the following results: (1) Repeal a proviso contained in the Third Supplemental Appropriations Act of 1951 (Public Law 45, 82d Cong.), the effect of which was to provide for termination of the entire section 17 program; (2) authorize the Civil Aeronautics Administration to consider and process section 17 claims which probably would have been filed subsequent to June 30, 1951, had it not been for the proviso of Public Law 45 referred to above; (3) amend section 17 (d) of the Federal Airport Act to extend the time limit for the filing of claims for damage done by a military agency from a date 6 months after the occurrence of the damage, as is now prescribed by subsection (d), to a date 6 months after the return of control and management of the airport by the military department to the airport owner; (4) amend section 17 (c) of the Federal Airport Act to permit the expenditure after June 30, 1953, of appropriations made pursuant to certifications submitted to the Congress under section 17; (5) amend section 17 of the Federal Airport Act by adding a new subsection (e) requiring that all certifications under section 17 be submitted to the Congress within one year from the expiration of the periods prescribed by law for the submittal of the requests to which such certifications relate.

POSITION OF INTERESTED PERSONS

The committee is advised that the enactment of this proposed legislation is desired by many individual municipalities and that the bill as amended has the strong support of the American Municipal Association, the United States Conference of Mayors and the National Institute of Municipal Law Officers.

In addition, the appendix contains reports of the Secretary of Commerce and the Secretary of the Air Force on the bill S. 2815 and the amendments to the bill proposed by Senator McCarran. The report of the Secretary of Commerce indicates that the Department of Commerce favors the bill as amended by the committee. The report of the Secretary of the Air Force indicates that the Department of Defense has no objection to the bill as amended by the committee.

As is pointed out in the report of the Secretary of Commerce, the section 17 program was originally intended "primarily to restore to full civil utility, civil public airports taken over by the military during World War II." Stating that that purpose has now been achieved, the Secretary reports the cost of the program to date as follows:

Fiscal year—	Cost
1949.....	\$1, 659, 524
1950.....	1, 046, 103
1951.....	1, 622, 886
1952.....	944, 605
Pending claims.....	1, 864, 589

It is also to be noted that, according to the Secretary's report, the Department of Commerce believes that the administrative difficulties encountered by the Civil Aeronautics Administration in its past administration of the section 17 program will be reduced or avoided in the future if the program is extended as contemplated by S. 2815 as amended by the committee. In this connection, the committee joins the Secretary in his belief and hope that the amendments to section 17 contemplated by the bill as amended will facilitate administration of the section 17 program in the several respects indicated and is glad to learn that the Department intends to see to it, if the section 17 program is extended, that civil airports occupied by the military agencies are inspected by personnel of the Civil Aeronautics Administration "prior to occurrence of military damage and again immediately after return of the airport by the military to the civil owner." The committee entirely agrees that such inspections should permit "a far more accurate adjudication of the validity and amount of the claim" in each case in which a section 17 claim is submitted in the future and feels that such inspections should help to make it possible to adjudicate future section 17 claims more nearly on the quasi-judicial basis contemplated by section 17 of the Federal Airport Act, than has been possible in the case of some past claims.

Your committee believes that the enactment of this legislation will be in the public interest.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

THIRD SUPPLEMENTAL APPROPRIATION ACT, 1951

(Public Law 45, 82d Cong.)

* * * * *

CLAIMS, FEDERAL AIRPORT ACT

For an additional amount for "Claims, Federal Airport Act," \$1,464,384, to remain available until June 30, 1953, as follows: Visalia Municipal Airport, Visalia, California, \$40,277; Gainesville Municipal Airport, Gainesville, Florida, \$9,467; Wayeross-Ware County Airport, the city of Wayeross and Ware County, Georgia, \$55,417; Harding Field, the Parish of East Baton Rouge, Louisiana, \$140,650; New Orleans Airport, Orleans Levee District and the Orleans Airport Commission, Louisiana, \$257,237; Laurence G. Hanscom Field, the Commonwealth of Massachusetts, \$91,528; English Field, Amarillo, Texas, \$29,590; Rio Grande Valley International Airport, Brownsville, Texas, \$384,161; Eaker Airfield, Durant, Oklahoma, \$359,580; Jefferson County Airport, Jefferson County, Texas, \$40,593; and the Draughton-Miller Municipal Airport, Temple, Texas, \$55,884: *Provided*, That no request for reimbursement of the cost of rehabilitation or repair of a public airport filed under section 17 of the Federal Airport Act shall be considered by the Secretary unless filed prior to July 1, 1951, and the Secretary shall make no certification to Congress after July 1, 1952 of the actual or estimated cost of such rehabilitation or repair.]

FEDERAL AIRPORT ACT

* * * * *

REIMBURSEMENT FOR DAMAGE BY FEDERAL AGENCIES TO PUBLIC AIRPORTS

REQUESTS FOR REIMBURSEMENT

SEC. 17. (a) Reimbursement shall be made to public agencies, as provided in this section, for the necessary rehabilitation or repair of public airports heretofore or hereafter substantially damaged by any Federal agency. The Secretary is authorized to render such assistance as he deems necessary to public agencies in the preparation of requests for reimbursement for the cost of rehabilitation or repair of public airports, under the control or management of such public agencies, which have been substantially damaged by any Federal agency and, upon receipt of such a request from a public agency, the Secretary is further authorized, on behalf of the United States to consider, ascertain, and determine, in accordance with regulations he shall prescribe pursuant to this section, the actual or estimated cost of such necessary rehabilitation or repair for which such public agency is entitled to reimbursement from the United States.

CERTIFICATIONS TO THE CONGRESS

(b) Such amount as may be found by the secretary to be the actual or estimated cost of such rehabilitation or repair shall be certified by the Secretary to Congress, which certification shall include a brief statement of the character of the damage upon which the request for reimbursement is based and of the work performed or to be performed to accomplish such rehabilitation or repair. In the event that, upon completion of such rehabilitation or repair, it is determined that the actual cost thereof, as approved by the Secretary, exceeds the amount of the estimate certified to Congress by him, the Secretary shall certify to Congress the amount by which such actual cost exceeds such estimate including in such certification a brief statement of the cause of the variation between the estimated and the actual cost of such rehabilitation and repair. Certifications made hereunder by the Secretary shall be deemed contractual obligations of the United States, payable as hereinafter provided.

APPROPRIATIONS AND PAYMENTS

(c) There are hereby authorized to be appropriated such amounts as may be necessary to enable the Secretary to make payments as provided for in this section to public agencies, either upon completion of the rehabilitation or repair involved, or as such rehabilitation or repair progresses, it being the purpose of this subsection to authorize the Secretary to make payments to public agencies, out of funds appropriated pursuant to this section, as reimbursement for the cost of such public agencies of work performed in accomplishing rehabilitation or repair prior to final completion of such work and at such time or times as may be determined by the Secretary, after consultation with the public agency involved: *Provided*, That no such payment made by the Secretary shall be in an amount which, together with all previous payments made to reimburse such public agency for the cost of such rehabilitation or repair, shall exceed the estimated cost of the work then performed. If the Secretary shall determine at any time that the aggregate of such payments exceeds the actual cost of the work then performed the United States shall be entitled to recover such excess. In the event the estimate of the cost of rehabilitation or repair of an airport as certified to Congress by the Secretary exceeds the actual cost of such rehabilitation or repair, the amount of such excess shall be covered into the Treasury of the United States as miscellaneous receipts. Appropriations made pursuant to this subsection shall remain available until [June 30, 1953, unless sooner] expended.

[LIMITATIONS]

TIME LIMITATIONS ON FILING OF REQUESTS

(d) No request for reimbursement of the cost of rehabilitation or repair to a public airport submitted pursuant to this section shall be considered by the Secretary unless such request [has been] was submitted to him within six months after the occurrence of the damage upon which the request is based, except that in case of a request relating to damage [caused by operations of a military nature

during time of war,] occurring while the airport was under the control and management of the United States, such request may be submitted within six months after [the date of termination of such war unless the airport is under the control and management of the United States at the time of termination of such war, in which event the request may be submitted to the Administrator within six months after] the transfer of such control [or] and management of the airport to the public agency involved.

TIME LIMITATIONS ON MAKING OF CERTIFICATIONS

(e) No certification pursuant to this section with respect to a request submitted to the Secretary after the date of enactment of this subsection (except a supplemental certification of the amount by which the actual cost of accomplished rehabilitation or repair exceeds the amount of a prior certification which was based on the estimated cost of such rehabilitation or repair) shall be made to the Congress after a date one year from the expiration of the period prescribed by law for the submittal of such request.

APPENDIX

AMENDMENT OF FEDERAL AIRPORT ACT, RELATING TO EXTENSION OF TIME FOR CERTAIN REQUESTS—AMENDMENT

Mr. McCARRAN. Mr. President, I submit an amendment in the nature of a substitute, intended to be proposed by me to the bill (S. 2815) to amend the Federal Airport Act in order to extend the time during which requests may be made for reimbursement for damages to public airports resulting from military operations. I ask unanimous consent that an explanatory statement by me be printed in the Record.

The VICE PRESIDENT. The amendment will be received, and printed, and referred to the Committee on Interstate and Foreign Commerce; and, without objection, the explanatory statement will be printed in the Record.

The statement is as follows:

STATEMENT BY SENATOR McCARRAN

What I am suggesting is, in effect, that my bill S. 2815, be amended by adding a new section which would repeal the proviso contained in the appropriation to the Department of Commerce, Civil Aeronautics Administration, headed "Claims, Federal Airport Act," in chapter II of the third supplemental appropriation act, 1951 (Public Law No. 45, 82d Cong.), reading as follows: "Provided, That no request for reimbursement of the cost of rehabilitation or repair of a public airport filed under section 17 of the Federal Airport Act shall be considered by the Secretary unless filed prior to July 1, 1951, and the Secretary shall make no certification to Congress after July 1, 1952, of the actual or estimated cost of such rehabilitation or repair."

Since the appropriation rider quoted above provides in effect for termination of the entire section 17 program, it is clear that such rider must be repealed if the program is to be continued. That it should be continued, with the other changes in applicable law suggested below, is seen in the fact that only in this way can the Government be assured that any civil airports damaged as a result of military operations during the present national emergency, will be suitably repaired or rehabilitated when they are returned to civil control and management.

Many such airports have recently been leased by the Government for military use during the national emergency and many others probably will be so leased in the near future. Such leases invariably obligate the Government to maintain the airport and some of them also provide for Government restoration of the leased premises to their original condition. However, experience shows that the military agencies normally perform only the airport maintenance work that is essential to military operations and that most military airport leases are terminated only if and when the lessor releases the Government from any contractual or other obligation with respect to restoration, reserving only any right it may have to receive reimbursement under section 17 of the Federal Airport Act. Where this occurs, a city that has leased its airport to the Government for military use at a nominal rental often finds itself with the airport returned to its possession in a damaged condition requiring expensive rehabilitation or repair if it is to serve civil aviation adequately and safely and be available for National Guard and Air

Reserve purposes and other future military use, as agreed in the required lease termination agreement.

It is true that in some cases the lessor may receive a cash payment in settlement of the Government's obligation to restore the premises and that in many cases the lessor is given hangars and other improvements constructed with military funds, in lieu of restoration. However, any funds received by a lessor as a settlement may or may not be used to accomplish necessary rehabilitation or repair and such rehabilitation or repair obviously is not assured where the lessor merely is granted the ownership of Government improvements in lieu of restoration.

Generally speaking, it may be asserted that the accomplishment of such rehabilitation or repair is essential to civil aviation and national defense and therefore in the interest of the United States, and that the Federal Government therefore should encourage, and bear the costs of, such rehabilitation and repair. The method of providing for the payment of such costs provided for in section 17 of the Federal Airport Act has proved satisfactory in the past, and section 17 therefore should be made applicable to any damage to civil airports done by the military agencies during the present period of rapidly increasing military use of such airports.

My proposed substitute also would have the effect of amending the bill S. 2815 by adding another new section reading as follows:

"Sec. 3. Notwithstanding the proviso cited in section 2 and the provisions of subsection (d) of section 17 of the Federal Airport Act, the Secretary of Commerce is authorized to consider, pursuant to the said section 17, any request for reimbursement of the cost of rehabilitation or repair of a public airport, which is submitted to him within 6 months following the effective date of this act, if such request would have met the time requirements of the said subsection (d) had it been filed subsequent to June 30, 1951, and prior to the effective date of this act."

Some such legislation would be necessary, if the Public Law 45 rider is repealed, in order to permit the filing of section 17 claims which probably would have been filed subsequent to June 30, 1951, had it not been for the provisions of Public Law 45 referred to above. If the section 17 program is to be continued, it seems inequitable not to provide for the inclusion of such claims.

My proposed redraft of the bill S. 2815 would also have the effect of changing its proposed revision of section 17 (d) of the Federal Airport Act to read as follows:

"(d) No request for reimbursement of the cost of rehabilitation or repair of a public airport submitted pursuant to this section shall be considered by the Secretary unless such request was submitted to him within 6 months after the occurrence of the damage upon which the request is based, except that in the case of a request relating to damage occurring while the airport was under the control and management of the United States, such request may be submitted to the Secretary within 6 months after the transfer of such control and management of the airport to the public agency involved."

This proposed revision of subsection (d), like that contemplated by the original draft of S. 2815, would extend the time limit for the filing of claims for damage done by a military agency during the present national emergency, from a date 6 months after the occurrence of the damage, as is now prescribed by subsection (d), to a date 6 months following the termination of the national emergency or a date 6 months after the return of control and management of the airport by the military department to the airport owner, if the airport is under the control and management of the United States at the time of termination of the national emergency. The necessity for some such amendment lies in the fact that section 17 was designed primarily to furnish a means of providing reimbursement for the cost of repairing airport damage done during World War II (which war has been expressly terminated for purposes of sec. 17 as of October 10, 1949, by Public Law 343, 81st Cong.) and has only an extremely limited application to airport damage done subsequent thereto. For this reason, even if the Public Law 45 rider were repealed, the only way the owner of an airport damaged during the present national emergency could qualify for reimbursement under section 17 would be to file a request for such reimbursement within 6 months after the occurrence of the damage. This would not be feasible in many cases where the airport was under lease to the Government, either because the airport owner would not have any means of knowing that its airport had been damaged or because the damage might be of such a nature as to make it impossible to fix the exact time it occurred; as for example, damage resulting from lack of maintenance.

However, the revision of subsection (d), which I have suggested, in one respect goes further than that contemplated by S. 2815, and in one respect is more restrictive. It goes further in that it would authorize consideration of any request

relating to damage occurring while the airport was under the control and management of the United States, which is submitted within 6 months after the transfer of such control and management to the airport owner, whether the airport was damaged during time of war or national emergency or not. It is more restrictive in that, if an airport were damaged by a military agency during time of war or national emergency while under the control and management of the United States and such control and management were returned to the airport owner prior to the termination of the war or national emergency, the petitioner would be given only 6 months from the date of such transfer of control and possession within which to file a request, rather than 6 months from the termination of the war or national emergency. These two changes in the provisions of S. 2815 are desirable both because they would make it possible to treat all civil airports alike, and because they would facilitate administration of the section 17 program.

Another result which my proposed amendment of S. 2815 would accomplish is to include a new amendment to section 17 of the Federal Airport Act which would delete the last sentence of section 17 (c) and insert in lieu thereof the following: "Appropriations made pursuant to this subsection shall remain available until expended."

This amendment is necessary whether the section 17 program is to be continued or not. If it is to be continued, it is obvious that there can be no such limitation on the availability of appropriations. If the program is not to be continued, the amendment will still be necessary for the reason that some of the funds appropriated for claims certified prior to June 30, 1952, in all probability will not have been expended prior to June 30, 1953. I am informed that representatives of the General Accounting Office have advised the CAA that the Comptroller General probably would construe the existing limitation to mean that all funds appropriated for the payment of section 17 claims will lapse on the date specified except those that have actually been expended prior to that date, as distinguished from those obligated. For these reasons, this amendment to section 17 is necessary whether any further action is taken to amend the section in other respects or not.

The existing limitation did not appear in section 17 as originally enacted but was added by Public Law 840, Eightieth Congress (62 Stat. 1111). Inasmuch as this change presumably was made in the belief that the section should terminate at the same time as the Federal-aid airport program authorized by other provisions of the Federal Airport Act, it is to be noted that the life of the program has since been extended to June 30, 1958, by Public Law 846, Eighty-first Congress. Instead of a corresponding extension of the availability of appropriations for rehabilitation and repair under section 17, I believe that the provision should be changed to make such appropriations available until expended, thus making the section permanent legislation once more; and my proposed amendment so provides.

My redraft of the bill S. 2815 also has the effect of amending it to include another new amendment to section 17 of the Federal Airport Act which would add a new subsection (e) as follows:

"(d) No certification pursuant to this section with respect to a request submitted to the Secretary after the date of enactment of this subsection (except a supplemental certification of the amount by which the actual cost of accomplished rehabilitation or repair exceeds the amount of a prior certification which was based on the estimated cost of such rehabilitation or repair) shall be made to the Congress after a date 1 year from the expiration of the period prescribed by law for the submittal of such request."

The purpose of this amendment is to avoid long delays on the part of petitioners in submitting necessary supporting information and materials. In the past the CAA has experienced great difficulty in persuading petitioners to submit supporting information once they have filed their original requests which, according to opinions of both the Attorney General and Comptroller General, need not be so complete as to provide a sufficient basis for determination of the amounts due. Despite every effort of the CAA to expedite the submission of the necessary supplementary information, many requests have had to be held in a pending status for long periods of time. These delays have made it difficult to establish the extent of the damages attributable to the Federal agency involved and have resulted in increasing the cost of the rehabilitation or repair to the Federal Government, due to rising costs of construction.

I realize that an amendment prescribing a time limitation for the submission of certifications to Congress may well place the CAA in a difficult position in some cases. However, it appears that this is the only feasible method of accomplishing the desired result, since it appears to be impossible, due to the variable nature of the supplementary information required, to state in statutory

language any time limits on the submission of the supplementary information which would meet the requirements of all cases and at the same time be definite enough to be effective. I believe that the advantages in prescribing time limitations for the submission of certifications far outweigh the disadvantages.

DEPARTMENT OF COMMERCE,
Washington, June 24, 1952.

Hon. EDWIN C. JOHNSON,
*Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.*

DEAR SENATOR JOHNSON: This is in response to your letter of June 16, 1952, requesting the views of the Department of Commerce on amendments (in the nature of a substitute) to S. 2815, intended to be proposed by Senator McCarran.

This bill, as amended, would reactivate the program of Federal reimbursement to State and local public agencies under section 17 of the Federal Airport Act, for the cost of rehabilitation or repair of public airports damaged during Federal occupancy. Because initially the program was intended primarily to restore to full civil utility, civil public airports taken over by the military during World War II, certain cut-off dates based upon the termination of the war were provided for the filing and perfecting of requests for reimbursement and for disbursing funds under the program. S. 2815, as amended, would revise these cut-off dates and extend the program to the many public civil airports again being occupied, to meet the needs of the current emergency military expansion.

The primary purpose of the original section 17 program has been achieved. The cost of this program to date is:

Fiscal year—	Cost
1949-----	\$1, 659, 524
1950-----	1, 046, 103
1951-----	1, 622, 866
1952-----	944, 605
Total-----	5, 273, 098
Pending claims-----	1, 864, 589

The majority of the civil airports taken over and utilized by the military agencies of the United States during World War II which were damaged by such occupation have been returned to civil use and the damage caused by the military occupation has been repaired. For this reason, the termination of the program by establishing the cut-off dates referred to above appeared appropriate at the time the action was taken. However, the expansion of the military forces brought about by the Korean incident has resulted in the recent reoccupation by military agencies of the United States of a substantial number of civil airports. The passage of S. 2815, as amended, would extend to these airports the same rights to recover cost of rehabilitation and repair for military damage as were granted to civil airports similarly damaged by occupation of military agencies during World War II. Our experience following World War II indicated that this type of program was necessary to assure complete rehabilitation and repair of civil airports in order that they could be restored to civil use, and it is reasonable to assume that the same situation will exist at the conclusion of the present expansion of the Armed Forces.

Certain administrative difficulties which arose under the expiring section 17 program should be reduced or avoided under the new language proposed in S. 2815, as amended. Section 17, as presently enacted, permitted a request for reimbursement to be filed at any time until 6 months after the end of World War II, regardless of the date of the return of the airport to the public agency involved. Because of the long interval between the end of the "shooting" war and its termination as a matter of law, filing and completion of requests for reimbursement were frequently delayed until long after the occurrence of the circumstances giving rise to the damage. It was, therefore, frequently difficult for this Department to determine these stale claims with any precision. S. 2815, as amended, would prevent these long delays by requiring all requests to be filed within 6 months after the occurrence of the damage, or within 6 months after return of the airport by the Federal Government to the public agency involved. A further provision of the amended S. 2815 would require this Department to certify to Congress the amount which should be allowed, within 1 year after the claim is filed. This should reduce difficulties caused by delays under the existing law in getting the requesting public agency to complete its application. However, certain administrative difficulties will remain. Where use of the airport has been only partially by a

Federal agency, where some civil use has intervened, or where Federal occupancy has merely aggravated some existing defect at an airport, it is difficult to apportion damage. Nevertheless, on the whole, we believe that a program under S. 2815, as amended, would be administratively feasible. In this connection it should be noted that if the section 17 program is extended at this time it would permit inspection of the airport prior to the occurrence of military damage and again immediately after return of the airport by the military to the civil owner, thus permitting a far more accurate adjudication of the validity and amount of the claim.

The Department is fully aware that there are major considerations of fiscal policy involved in legislation of this type. Further, in this instance these factors of fiscal policy appear to be wholly within the special province of Congress and for that reason the Department makes no recommendation thereon. However, since this bill in our opinion, represents a substantial improvement over existing legislation, the Department has no objection to the enactment of S. 2815 with the amendments proposed by Senator McCarran, June 13, 1952.

Due to the urgency of your request, the Department has been unable to effect the necessary coordination to advise you whether or not the proposed legislation would be in accord with the program of the President. If we can be of further assistance in this matter, please call on us.

Sincerely yours,

CHARLES SAWYER, *Secretary of Commerce.*

DEPARTMENT OF THE AIR FORCE,
Washington, July 2, 1952.

HON. EDWIN C. JOHNSON,
*Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.*

DEAR MR. CHAIRMAN: I refer to your request for the views of the Department of Defense on S. 2815, a bill to amend the Federal Airport Act in order to extend the time during which requests may be made for reimbursement for damages to public airports resulting from military operations. The Secretary of Defense has delegated to this Department the responsibility for expressing the views of the Department of Defense.

The purpose of S. 2815 is to amend section 17 (d) of the Federal Airport Act so as to extend certain provisions of the Act regarding claims for reimbursement for damage to public airports resulting from military operations.

S. 2815, as originally introduced on March 7, 1952, was in conflict with Public Law 45, Eighty-second Congress. This law, a supplemental appropriations act for fiscal year 1951, contained language which appeared to preclude further considerations of any claims under section 17 of the Federal Airport Act. The original bill also provided that requests for reimbursement of the cost of rehabilitation or repair to public airports caused by operations of military nature could be submitted up to 6 months after the date of the termination of war, which was not acceptable to the Department of Defense.

The amendments (in the nature of a substitute) (June 13, 1952), intended to be proposed by Senator McCarran to S. 2815 would remove the objectionable features of the original bill. They would repeal the conflicting section of Public Law 45. They would also require requests for reimbursement of the cost of rehabilitation or repair to public airports caused by operations of a military nature to be submitted within 6 months after the occurrence of the damage or within 6 months after the transfer of the control of management of the airport to the public agency involved.

The Department of Defense has no objection to the enactment of S. 2815 provided the amendments submitted by Senator McCarran which he intends to propose to S. 2815 are incorporated in the bill.

The Department of Defense is unable to estimate the fiscal effects of S. 2815.

This report has been coordinated among the departments and boards of the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

This report has not been coordinated by the Bureau of the Budget due to insufficient time.

Sincerely yours,

E. V. HUGGINS,
Assistant Secretary of the Air Force.